December 27, 2017

National Credit Union Administration
Gerald Poliquin, Secretary of the Board
1775 Duke Street
Alexandria, VA 22314-3428

RE: Comments on Proposed Rule--Capital Planning and Supervisory Stress Testing

Dear Mr. Gerald Poliquin,

I am writing on behalf of the California and Nevada Credit Union Leagues (Leagues), one of the largest state trade associations for credit unions in the United States, representing the interests of more than 260 credit unions and their approximately 10.4 million members.

The Leagues welcome the opportunity to provide comments to the National Credit Union Administration (NCUA) on its proposal to amend the capital planning and supervisory stress testing requirements for federally insured credit unions with $10 billion or more in assets (covered credit unions). The NCUA notes the proposed changes are intended to reduce regulatory burdens by removing some of the more onerous capital planning and stress testing requirements currently applicable to covered credit unions.

The Leagues support NCUA's goal of balancing regulatory relief to covered credit unions with managing risk to the National Credit Union Share Insurance Fund (NCUSIF). However, we believe the proposed amendments provide little relief and, in fact, increase regulatory burden in some instances. We respectfully offer the following comments and recommendations.

Credit Unions Excluded

When the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was drafted, Congress excluded credit unions from the Dodd-Frank Act stress testing (DFAST) requirements under section 165(i)(2). The DFAST provisions were designed to help banks withstand a severe economic downturn, in part due to the interconnectedness of the banking system. Credit unions are not wholly interconnected within the banking system and therefore would be more insulated from a systemic bank holding company failure. The Leagues agree with the 111th Congress that enacted the Dodd-Frank Act reforms that credit unions should not be subject to DFAST or similar stress testing.

NCUA's rule requiring supervisory stress testing is entirely at the agency's discretion. We recommend the NCUA eliminate the supervisory stress testing requirements, or at a minimum right size the rule based on a credit union's size, complexity, and financial condition.

Proposed Tiers of Covered Credit Unions

The proposal identifies three tiers of covered credit unions and would impose varying levels of regulatory requirements based on those tiers.

- Tier I: Covered credit union that has completed fewer than three capital planning cycles and has less than $20 billion in total assets; is not subject to any supervisory stress testing requirements; is not required to incorporate the NCUA's supervisory stress test scenarios within its capital plan;
- Tier II: Covered credit union that has completed three or more capital planning cycles and has less than $20 billion in total assets, or is otherwise designated as a tier II credit union by the NCUA; is required to incorporate the NCUA's annual supervisory stress test scenarios into its capital plan submissions; and
- Tier III: Covered credit union that has $20 billion or more in total assets, or is otherwise designated as a tier III credit union by the NCUA; is required to incorporate the NCUA's annual supervisory stress test scenarios into its capital plan submissions; is subject to a 5% minimum stress test capital ratio.

The proposal would apply the tier III threshold of $20 billion as of the March 31 measurement date of each year, and the threshold would be effective at the beginning of the next capital planning cycle. The capital planning cycle would begin on June 1 of that year and run through the capital plan submission date of May 31 of the following year.

<u>Tier Thresholds - Characteristics</u>

In the proposal, NCUA states covered credit unions would be subject to new tiered regulatory requirements that would "further ensure their capital plans are tailored to reflect their size, complexity, and financial condition."[1]

The Leagues agree that a tiered approach is appropriate, and that size, complexity, and financial condition are proper characteristics to consider. However, the proposed tiers appear to be based solely on asset size. The Leagues recommend that net capital levels or Risk-Based Capital (RBC) levels also be considered, along with overall complexity which can be correlated to risk weights in the RBC rule. Covered credit unions that are substantially capitalized or less complex pose less risk to the NCUSIF. These characteristics should be considered in establishing appropriate tiers.

<u>Tier Thresholds – Asset Size</u>

Under the proposal, the NCUA's capital planning and stress testing rule would distinguish between a tier II and a tier III credit union at the threshold level of $20 billion in total assets. The NCUA specifically requests comment on whether the threshold level should be set higher, at $25 billion in total assets, to provide covered credit unions with even more time to plan and prepare for compliance.

The Leagues believe that $20 billion, and even $25 billion, is too low. As the banking industry moves towards thresholds of $250 billion for their most rigorous requirements, the NCUA should also move confidently forward in right-sizing the capital planning and supervisory stress testing requirements for credit unions. The Leagues recommend a base threshold of $50 billion in assets along with a waiver process for substantially capitalized credit unions or credit unions with non-complex balance sheets.

<u>Tier Thresholds – Tier I Tenure</u>

The NCUA proposes that a Tier I credit union would be a covered credit union that has completed fewer than three capital planning cycles and has less than $20 billion in total assets. Regardless of the asset size threshold ultimately established, the Leagues recommend extending the timeframe for tier I credit unions until they have completed five capital plan submissions; changing the criteria for tier I to *fewer than six capital planning cycles*. (A tier II credit union would then be a covered credit union that has completed six or more capital planning cycles.) Providing additional planning cycles will allow Tier I credit unions to focus on establishing sound capital planning and capital adequacy assessment processes before incorporating supervisory stress testing.

Supervisory Stress Testing

Under the current rule, the NCUA is required to conduct supervisory stress tests (SST) for all covered credit unions. Under the proposal, tier II and tier III credit unions would be required to conduct their own SSTs in accordance with the instructions provided by the NCUA. The proposal retains the provision in the current rule that reserves the NCUA's right to conduct SSTs on any covered credit union at any time, and to request qualitative and quantitative information from the covered credit unions that pertains to SSTs.

<u>Increased Regulatory Burden and Costs</u>

The Leagues understand that requiring tier II and tier III credit unions to conduct their own SSTs will result in significant operational burden and expenses for these credit unions. The stress tests currently run by covered credit unions for capital planning purposes are distinctly and substantially different than the requirements and assumptions employed by NCUA's SSTs. For example, one credit union notes that identical scenarios will need to be run independently based on the use of a static balance sheet versus a dynamic balance sheet.

<u>Timing</u>

The proposed rule's summary states NCUA does not believe requiring covered credit unions to incorporate the NCUA's supervisory stress test scenarios within its capital plan would impose additional regulatory burden[2]. The Leagues understand that the proposed timing requirements for conducting SSTs would, in fact, create significant burden.

Under the current rule covered credit unions provide data to the NCUA beginning in November of the prior year through February of the current year, and SST results are provided to covered credit unions by August 31. This provides the NCUA with six to nine months to complete the SSTs.

Under the proposed rule, for tier II and tier III credit unions to incorporate the SST results within their capital plans, due May 31, they must complete the SSTs within one to two months. For example, if the NCUA delivers the stress tests scenarios and instructions at the end of February, tier II and tier III credit unions will need to complete the SSTs in March to allow sufficient time for review and approval by their board of directors in April or May.

In addition to the compressed time frame, completing the SSTs will require using the same resources as is needed to complete the capital plan, thus increasing the burden for both processes.

Recommendation

As noted above, the Leagues recommend NCUA Board use their discretion to eliminate the SST requirements, as credit unions were excluded from SST requirements under the Dodd-Frank Act. Additionally, we support eliminating the SST requirements as the assumptions and requirements used by covered credit unions in developing their capital plans are sufficient to ensure capital adequacy.

Running SSTs will require considerable resources at tier II and tier III credit unions. The Leagues strongly recommend, should self-run SSTs be required, that covered credit unions not be required to incorporate the results within their capital plans and the submission date for SST results be no earlier than August 31.

Quarterly Data Submissions

Under the current rule, covered credit unions are required to provide the NCUA with quarterly stress test data. These data files are burdensome and time intensive to produce. These data file submissions are not addressed under the proposed rule. However, the Leagues recommend that, should self-run SSTs be required for covered credit unions, these quarterly data submissions should no longer be required.

Capital Planning Requirements

The proposed rule would retain the current requirement that all covered credit unions submit capital plans to the NCUA no later than May 31 of each year. However, tier I and tier II credit unions would no longer be required to have their capital plans formally approved by the NCUA; capital plan reviews would be conducted as part of the NCUA's supervision of the credit union, with any deficiencies addressed as part of the supervisory process.

The proposed rule would retain the current requirement for the NCUA to formally approve or reject a tier III credit union's capital plan. Because the failure of a tier III credit union poses the most significant risk to the NCUSIF, the Board believes it is prudent to retain the current, more formal requirements for tier III credit unions. The NCUA's formal rejection of a capital plan would be subject to the Supervisory Review Committee process.

The Leagues agree with and support the amendments related to capital plan reviews.

Conclusion

The Leagues support a tiered approach to capital planning requirements and we recommend that, along with asset size, net capital levels or RBC levels and overall complexity be considered in establishing appropriate tiers. We recommend a base threshold of $50 billion in assets along with a waiver process for substantially capitalized credit unions or credit unions with non-complex balance sheets.

The Leagues believe that credit unions should not be subject to DFAST or similar stress testing requirements and we recommend the NCUA eliminate the SSTs. Should self-run SSTs be required, we strongly recommend that covered credit unions not be required to incorporate the results within their capital plans and the submission date for SST results be no earlier than August 31. We also recommend, should SSTs continue to be required, that a tier I credit union be defined as a covered credit union that has completed fewer than six capital planning cycles.

We thank you for the opportunity to comment on the proposed amendments and for considering our views. If you have any questions regarding our comments, please contact me.

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[1] Capital Planning and Supervisory Stress Testing. 82 Fed. Reg. 50095 (October 30, 2017)

[2] Capital Planning and Supervisory Stress Testing. 82 Fed. Reg. 50096 (October 30, 2017)

Sincerely,

Diana Dykstra
President and CEO
California and Nevada Credit Union Leagues

cc: CCUL